

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of the)
Subscriber Changes Provisions)
of the Telecommunications Act)
of 1996)

Policies and Rules Concerning)
Unauthorized Changes of Consumers')
Long Distance Carriers)

Sprint Request for Wavier)

CC Docket No. 94-129

PETITION FOR WAIVER

Sprint Communications Company L.P. ("Sprint"), pursuant to Section 1.3 of the Commission's Rules, 47 CFR §1.3, hereby respectfully requests a limited waiver of the Commission's authorization and verification rules (47 CFR §§64.1100 -64.1190) to the extent necessary to enable Sprint to transfer the subscribers of Telmex/Sprint Communications, L.L.C. ("TSC") to its customer base without first obtaining such subscribers' authorization and verification. As demonstrated below, Sprint fully satisfies the good cause standard established by *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) for securing a waiver.

I. BACKGROUND

TSC is a 50-50 joint venture between Teléfonos de Mexico, S.A. de C.V. ("Telmex") and Sprint. See *Telmex/Sprint Communications, L.L.C. (File No. ITC-97-127)*, 12 FCC Rcd 17551, 17553 (¶7) (1997) (*TSC Order*). TSC received its international Section 214 authorization from the Commission in October 1997 and began providing U.S. domestic and international services

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as a switchless reseller to U.S. residents sometime thereafter. Sprint is TSC's underlying facilities-based carrier.

On May 4, 1999, Telmex and Sprint announced that they were dissolving the joint venture. Under the terms of the dissolution, Sprint will succeed to TSC's subscriber base and thus such subscribers will receive service directly from Sprint as opposed to receiving Sprint service through TSC. Prior to such succession, Sprint will send letters to TSC's subscribers informing them that TSC has discontinued service; that the service they have received from TSC has always been physically provided by Sprint; that if they stay with Sprint, they will continue to receive the same service as provided by TSC at the same rates, terms and conditions; that the only difference is that they will be billed by Sprint rather than TSC; that they do not have to do anything to receive Sprint service; but that if they do not want Sprint service, they should contact their LEC to change carriers.¹

II. ARGUMENT

Under the regulatory regime established by the Commission in its *Second Report and Order* issued in this proceeding, (FCC 98-334 released December 23, 1998), Sprint is considered to be an executing carrier when it converts customers from one of its switchless reseller customers to itself. *See Second Report and Order* at ¶95 ("...the facilities-based IXC would be the executing carrier for all carrier changes in which the subscriber remains on the facilities-based IXC's network, regardless of whether the subscriber has changed from a switchless reseller to the reseller's facilities-based IXC..."). Under §64.1100(a)(2) of the FCC's rules, executing

¹ TSC's 800 service customers will be told of their right to contact another carrier if they do not want to receive 800 service directly from Sprint.

carriers need not verify changes in a subscriber's selection of a provider of telecommunications services.

Sprint also appears to be a submitting carrier with respect to subscribers it transfers from its TSC to itself.² Submitting carriers are required to verify all preferred carrier change orders before such changes can be executed. See 47 CFR §64.1150 ("No carrier shall submit a preferred carrier change order unless and until the order has first been confirmed in accordance with one of the following [verification] procedures..."). But requiring that Sprint obtain verification of each of TSC's subscribers before it can begin to provide service to such subscribers would prevent the seamless transfer of such subscribers and disrupt their ability to place 1+ long distance calls over the facilities of the carrier that is actually transporting their calls today at the identical rates and under the identical terms and conditions for the service they currently receive from TSC. Indeed, given the size of TSC's subscriber, it would be unlikely in the extreme that Sprint will be able to obtain the verification of each of TSC's subscribers before TSC discontinues operations. Thus, absent a waiver, Sprint would have to block the 1+ calls of those unverified former TSC subscribers, causing them inconvenience and forcing them to utilize dial-around services which may be more expensive than the services they now receive from TSC and will continue to receive from Sprint. In any case, as stated, all of TSC's subscribers will receive prior notification from Sprint of the change in their service provider and will be informed of their ability to change carriers by contacting their LEC. Plainly, the circumstances justifying granting Sprint its requested waiver are similar, if not identical, to the circumstances found by

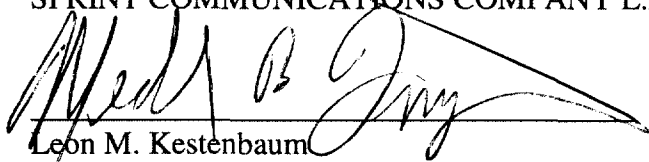
² Sprint believes that the Commission's *Second Report and Order* is somewhat unclear on this point. Compare ¶94 where the Commission states that a facilities-based LEC can be both an executing and submitting carrier with ¶95 where the Commission classifies the facilities-based IXC only as an executing carrier when it changes a subscriber of its switchless reseller customer to its own services. Sprint does agree that, as a logical matter, the IXC should also be considered a submitting carrier in such instances and for this reason it is filing this waiver petition.

the Commission to justify a waiver in the public interest of its authorization and verification rules for EqualNet Corp. *See Implementation of the Subscriber Changes Provisions of the Telecommunications Act of 1996; EqualNet Corporation Request for Waiver, Order* (DA 99-506) released March 15, 1999. *See also Implementation of the Subscriber Changes Provisions of the Telecommunications Act of 1996; CoreComm Limited Request for Waiver* (DA 99-893) released May 13, 1999 and *Implementation of the Subscriber Changes Provisions of the Telecommunications Act of 1996; International Exchange Communications, Inc. Request for Waiver* (DA 99-894) released May 13, 1999.

Accordingly, Sprint respectfully requests that the Commission waive its authorization and verification rules as set forth herein. Sprint also requests that its request here be expedited since TSC intends to discontinue operations in the relatively near future.

Respectfully submitted,

SPRINT COMMUNICATIONS COMPANY L.P.

A handwritten signature in black ink, appearing to read 'Leon M. Kestenbaum', is written over a horizontal line.

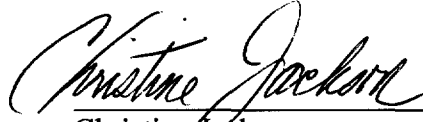
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May 21, 1999

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing PETITION FOR WAIVER was sent by United States first-class mail, postage prepaid, on this the 21th day of May, 1999 to the parties on the attached list.


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